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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,062	01/26/2006	George G. Moser	5279-000018/US/NPB	2047

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EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

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02/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,062	Applicant(s) MOSER ET AL.	
	Examiner Rodney H. Bonck	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a first action on the merits of application Serial No.10/566,062, filed January 26, 2006.

Information Disclosure Statement

Receipt is acknowledged of the Information Disclosure Statement filed January 26, 2006. The cited documents have been considered.

Drawings

The drawings are objected to because "line 3-3" and "line 4-4", referred to in paragraphs [0019], [0020], and [0032], are not in Figure 1.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: The specification refers to reference number 49 as designating a "space", paragraph [0027], and "Surfaces", paragraph [0033]. Reference number 32 is used to designate both an "end flange", paragraph [0027], and a "bushing housing", paragraph [0029]. Reference number 33, is used to designate both a "spacer" and an "arrow", paragraph [0035].

Appropriate correction is required.

Claim Objections

Claim 8 is objected to because of the following informalities: In line 8 of claim 8, "made" apparently should be – mode --. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 8-13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Christopher(US 2001/0017481 A1). Noting particularly Figs. 2 and 3, Christopher discloses a magnetic torque transfer device comprising an input member having an input gear 32, and output member having an output gear 30, a magneto rheological fluid disposed between the teeth of the gears, and an electric coil 40 to activate the magneto rheological fluid. The magneto rheological fluid operates in compression between the teeth of the gears. Since both the input and output are rotatable, the device of Christopher constitutes a clutch. The method steps of claim 15 would inherently be performed in using the Christopher device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher(US 2001/0017481 A1). While the device of Christopher is a clutch, brakes and clutches are so closely related that it would have been obvious to one having ordinary skill in this art that fixing or retarding the output relative to the input would constitute a brake. Thus, to the extent that there is a load on the output, the device of Christopher also forms a brake on the input. Furthermore, it would have been obvious to use the same type of coupling to form a brake, since applying this teaching to brake a rotatable input relative to a fixed output would have produced a result that would be predictable to one having ordinary skill in the art at the time of the invention.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher(US 2001/0017481 A1) in view of Stephens('244). While the device of Christopher only has a single pinion, the same coupling principle could obviously be applied to the arrangement of Stephens, which has multiple pinions (39, 40). Stephens uses a valve to restrict flow to couple the input and output, but it would have been obvious to use the magneto rheological arrangement, such as in Christopher, since doing so would eliminate the need for the valve actuating arrangement and would have

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produced a predictable result to one having ordinary skill in this art at the time of the invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Krzesicki et al.('674) is cited for its showing of a pump in Fig. 3 controlled by magneto rheological fluid and for the teaching of using different kinds of pumps such as gerotor pumps and gear pumps.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rodney H. Bonck/
Primary Examiner, Art Unit 3681

rhb
February 6, 2008